

Courtroom Drama, Chinese Style

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INTRODUCTION

I have long been enamoured of early Chinese movies and noted their depictions of justice (and injustice) in criminal trials, as well as their fascinating portrayals of lawyers. Those early films include some of China's greatest movies and many are still deeply affecting: who could forget the trial scene in *Goddess* (*Shennü* 1934) or the resolute lawyer in Cao Yu's *Bright Day* (*Yanyang Tian* 1948)? But my Chinese students urged me to 'watch some current Chinese movies,' and fortunately I took their advice, as two recent movies proved well worth the time. Both of them take an Anglo-American rather than a Chinese model for their stories, even if they don't completely abandon Chinese values or approaches to trials: one features an adversarial proceeding and the other focuses on the jury deliberations that follow.

Of course China has a well-developed tradition of courtroom drama, and not only in film. The real-life figures Judge Bao and Judge Dee, for example, have long featured in stories, detective novels and theatre, and in all of them courtroom scenes are central to the story.¹ Judge Bao television series remain popular in the Chinese-speaking world and the depictions of his wise and benevolent justice still have great appeal.² Modern versions of Judge Bao have also appeared in fiction and movies after China's post-1979 opening and reform, with the judge still the hero who must solve the case. In 1980's memorable *Inside and Outside Court*, for example, the central character is a clever woman judge who must investigate a difficult case.³ A more sophisticated as well as more recent variant of this genre may be found in the 2009 film *Judge*, which is set in 1997 just after the implementation

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¹ See for example Hayden, GA (1978) *Crime and Punishment in Medieval Chinese Drama: Three Judge Bao Plays* Harvard University Council on East Asian Studies. Wolff, E (1970-71) 'Law Court Scenes in the Yuan Drama (29) *Monumenta Serica* 193.

² The Taiwan series *Bao Qingtian* (*Justice Bao*), for example, was very popular when it was shown on Hong Kong television in the early 1990s. A more recent series with the same title also attracted a wide viewership. 'Legend of Bao Back on TV 16 Years Later.' Available at <http://www.china.org.cn/culture/2009-07/23/content_18188089.htm>.

³ *Inside and Outside Court* (*Fating Neiwai*), was directed by Cong Lianwen and Lu Xiaoya, and starred Tian Hua as the judge. This film and the novel on which it is based are discussed in Kinkley, JC (2000) *Chinese Justice, the Fiction: Law and Literature in Modern China* Stanford University Press at 70-73. Kinkley discusses modern incarnations of Judge Bao throughout this volume, for example, at 28, 56-64, 116.

of major criminal procedure reforms. In this complex story, the central character is a judge who faces an ethical and moral dilemma in resolving a case and sentencing the defendant.⁴

But in all those dramas the procedure is inquisitorial, not adversarial, and Judge Bao or his modern incarnation combines prosecutorial and even investigative functions with a judicial role. The procedure is also highly paternalistic, involving the imposition of order by an authority figure: the judge discovers the truth and, based on his investigations, the true wrongdoers are discovered and punished.⁵ But the two courtroom dramas discussed in this essay are very different in tone and in style, and at least superficially they mark a clear departure from most early and reform-era films. Thus *Silent Witness* (Quanmin Muji 2013) presents procedure that is strikingly adversarial, and not just in its courtroom scenes; the story is not told from the judges' point of view, nor are judges the central characters in the drama. Instead the movie focuses on the prosecution and the defence, and the battle waged between them both inside and outside the court. *12 Citizens* (Shi'Er Gongmin 2015) hardly shows us the courtroom (an Anglo-American mock trial), but it introduces the jury and moves it to centre stage; this movie too appears to leave Judge Bao far behind.

Unlike the pre-1949 films noted above as well as others from that era, *Silent Witness* and *12 Citizens* are not critiques of the current legal system, nor do they directly confront the very real problems in Chinese criminal justice today. This is popular entertainment, after all, and it is subject to commercial considerations as well as political constraints. In style and approach these are very different movies, but they share some themes and both at least indirectly raise broader ideas of justice—and popular movies can have a powerful effect on people's views of the legal system and how it should work.⁶ *Silent Witness* and *12 Citizens* are also of interest as re-interpretations for Chinese viewers of the western version of this movie genre. In the US and the UK, courtroom drama is a staple of both popular and serious film and—however inaccurate their depictions of trials and courts—the procedure and the cinematic conventions are well understood. The courtroom drama in these two Chinese movies, however, is to some extent a legal transplant; consequently the films offer viewers, both foreign and Chinese, a new take on the familiar Anglo-American genre.

THE FIRST TRIAL: SILENT WITNESS

Background

Silent Witness contains a complex, intriguing plot as well as some distinctive images of justice. The film was written and directed by Fei Xing (Li Wenbing), an experienced television director whose first movie, *The Man behind the Courtyard House*, was released in 2011.⁷ The Oscar-nominated Zhao Xiaoding served as the cinematographer, and the film

⁴ *Judge* (Touxi, lit., *Dialysis*) was directed and co-written by Liu Jie in 2009. Liu Jie also directed the 2006 *Courthouse on Horseback* (*Mabeishang de Fating*), in which judges are the central characters and the hearings are presented from their perspective.

⁵ See Kinkley, *J Chinese Justice* supra note 4 at 12-13, 334 ff.

⁶ In the US, for example, some scholars have argued that the countless popular depictions of trials are an important reason that Americans, including lawyers, believe the adversarial system is the best method for discovering the truth. Asimow, M (2005) 'Popular Culture and the American Adversarial Ideology' in Freeman, M (ed) *Law and Popular Culture* Oxford University Press at 608.

⁷ *Shouwangzhe*. See <<http://baike.baidu.com/item/feixing?sefr=enterbtn>> for more information on Fei Xing and his work. For television, Fei Xing has also favoured stories involving crime or courtroom drama, including

stars top Chinese actors Sun Honglei and Yu Nan as well as Hong Kong megastar Aaron Kwok. The movie credits alone suggest this will be a better effort than usual, and *Silent Witness* did well in China, outperforming most other popular movies released to theatres that year.⁸ *Silent Witness* also received generally favourable reviews from the international film community⁹ and featured in several film festivals, where it was praised as 'superb, mesmerizing entertainment.'¹⁰

Chinese movies are subject to censorship and, because China lacks a ratings system, film content must ordinarily be deemed suitable for viewers of all ages, placing further limits on filmmakers.¹¹ More important, any portrayal of actions by the authorities, most definitely including courts and the prosecution, raises potentially sensitive issues, something to keep in mind as we analyse the film's plot and its meaning. Nevertheless, Fei Xing manages to tell a gripping story, offering Chinese viewers an enjoyable look at wealth and luxury (and more than a hint of sex), in addition to dramatic courtroom rivalry. As its main characters, the movie features a zealous prosecutor, a billionaire entrepreneur apparently beyond the reach of the law, and a highly successful defence lawyer who has plenty of money herself. *Silent Witness* also raises, at least indirectly, serious questions about courts, trial procedure, and the role of lawyers and prosecutors in the criminal justice system, even if Fei Xing's vision bears little relationship to reality. Most of my Chinese friends told me how much they enjoyed the film, although those with legal training all emphasised that the movie 'definitely isn't accurate.'

According to its director, *Silent Witness* was shot in two months,¹² but it is still very slick and has high production values, both notable in a Chinese film. Usually described as a thriller or crime drama, *Silent Witness* has a strong film-noir feel, with deep blue and dark tones throughout and many key scenes shot at night or in the rain. The action is set mostly, though not entirely, in the fictional city of Fengzhou, which is actually Tianjin, cleverly shot and presented as a modern and very attractive urban centre. This Fengzhou, like many real Chinese cities now, has a certain Gotham City look, though (unrealistically) it has very little traffic, as we see in the movie's opening sequence.

Storm Court (Fengbao Fating), for which he was the screenwriter.

⁸ According to Box Office Mojo, in 2013 the movie ranked #37 out of 164 Chinese and foreign movies listed, with a US\$29,260,000 gross. Figures available at <<http://www.boxofficemojo.com/intl/china/yearly/?yr=2013&p=.htm>>. *Silent Witness* received a Douban score of 7.6 out of 10, based on 130,000 ratings. Available at <<https://movie.douban.com/subject/11510624/>>. Douban.com is a popular Chinese social network site devoted to reviews and discussion of film, books and music.

⁹ For example, Elley, D (2013) 'Silent Witness' *Film Business Asia*, 30 September. 'Superbly Crafted Crime/Courtroom Procedural That's a Game-changer in Mainland Genre Cinema,' the heading. Tsui, C (2013) 'Silent Witness (Quan Min Mu Ji): Film Review' *Hollywood Reporter* 16 September, available at <www.hollywoodreporter.com/review/silent-witness-guan-min-mu-629646>.

¹⁰ At the 2014 New York Asian Film Festival. See <<http://www.subwaycinema.com/nyaff14/silent-witness/>> for the review. *Silent Witness* premiered at the 2013 Busan International Film Festival. A Korean film company bought the rights to the movie and its version, titled 'Silence,' will reportedly be released in 2017. <[http://asianwiki.com/Silence_\(Korean_Movie\)](http://asianwiki.com/Silence_(Korean_Movie))>.

¹¹ Films are regulated by the State Administration of Press, Publication, Radio, Film and Television of the People's Republic of China (SAPPRFT) [*Guojia Guangbo Dianying Dianshi Zongju*], formerly known as the State Administration of Radio, Film, and Television (SARFT). The new film law, which went into effect on 1 March 2017, continues film review (and censorship) for content but does not introduce a formal film ratings system.

¹² Velez, D (2014) 'NY Asian 2014: Director Fei Xing Judges the Court of Public Opinion in *Silent Witness*' 14 July, available at <http://screenanarchy.com/2014/07/ny-asian-2014-director-fei-xing-judges-the-court-of-public-opinion-in-silent-witness.html#ixzz3IDcFcdz7>>.

Everyone Is a Witness

The plot of *Silent Witness* is complex; at its centre is a trial, which is told from four different perspectives. The movie opens with shots of cars on the road, first the prosecution team, then the defence lawyers, speeding through the city. Their destination is the Fengzhou Intermediate People's Court, where Lin Mengmeng, an art student only twenty years old, is on trial for murder. She is charged with killing Yang Dan, a popular singer who was the girlfriend of Mengmeng's billionaire father, Lin Tai. A large crowd of reporters is gathered outside the courthouse, waiting for the parties to arrive, and another group of journalists is reporting live from a command station inside the building; from them we learn that it is May 28 and that this is the first day of the trial. The defence lawyer Zhou Li and the prosecutor¹³ Tong Tao reach the courthouse at almost the same moment and confront each other even before the trial begins. Last to arrive is Lin Tai, who makes his way into the courthouse, flanked by his staff and surrounded by a crowd of reporters pressing him for a quote. But suddenly, on the stroke of 9:00 a.m., the square in front of the courthouse is empty—all the action has moved inside.

From its opening shots, *Silent Witness* is framed as a battle, and throughout the movie Fei Xing continues to highlight the tense contest between the prosecution and the defence. This framing heightens the adversarial feel of the story, reminding Chinese viewers of the professional as well as personal battle the trial depicts. Inside the courtroom, once the lawyers and Lin Tai have taken their seats, the defendant, looking like a small child, is brought to her place in the dock at the centre of the court, where she stands, clad in prison attire, in manacles and flanked by police. When the three judges ascend to their places on the bench, the trial begins. Prosecutor Tong Tao presents the evidence, including CCTV footage of Mengmeng arguing with the victim Yang Dan in a parking garage—then driving her car into Yang Dan and apparently killing her. When the prosecutor questions Mengmeng, he summarises the evidence against her and asks if she killed Yang Dan. Although defendants have no right to silence in the Chinese system, Mengmeng has apparently not confessed to the murder by the time of her trial, and she doesn't quite answer these questions on the stand.

During most of the prosecution's case, the defence lawyer does nothing on behalf of her client, even though the chief judge repeatedly asks if she has any questions or objections to the evidence. But when Lin Tai's driver is called to the stand, Zhou Li finally springs into action. During her cross-examination, Zhou presses the witness hard, repeatedly asking him if his wife was having an affair with his boss, Lin Tai. Suddenly the driver breaks down on the stand and declares that it was he, not the defendant Mengmeng, who committed the murder. This Perry Mason moment occurs barely twenty-five minutes into the film, at which point the driver is arrested and led out of the court; if this were a Perry Mason episode, *Silent Witness* would now be over.

¹³ *Jianchaguan* should ordinarily be translated as 'procurator,' as it refers to a judicial official whose role is broader than and not identical to that of a prosecutor in the US system. But Tong Tao's role in the film is really that of a prosecutor, so I have used that term for this discussion.

The Film Rewinds (and Rewinds...)

Instead the movie suddenly rewinds to the opening scene outside the courthouse, and the story starts over on the morning of May 28.¹⁴ Events are now told from the prosecution's point of view, and we learn more about what really happened, or may have happened, in the case. Both the prosecution and the defence team are investigating the actions of Lin Tai's driver and the possible reasons for his surprising confession—did the driver really commit the murder or has he been paid to confess? But just before the next session of the trial, the prosecution team receives a mysterious email containing a cellphone recording of the murder that shows it was Lin Tai, not his daughter or his driver, who killed Yang Dan. Based on this new information, Tong Tao examines Lin Tai on the stand and repeatedly accuses him of committing the murder himself. In a second Perry Mason moment, Lin Tai loses control and admits to killing his girlfriend, then is dragged out, struggling and angry, by the police. 'I'll die behind Dragon Back Wall, I'll die in your hands' he shouts as the police remove him from the courtroom.

Suddenly the film rewinds again, and the third version of events begins, now told from the defence lawyers' point of view. It was Zhou Li, we learn in this version, who was given (false) information by the driver's wife incriminating her husband, and it was Zhou who was offered the chance to buy the mysterious video showing Lin Tai committing the murder. It was also Zhou who forwarded it to the prosecution, to save her client—believing that Lin Tai was a murderer who allowed his daughter to stand trial for a crime he had committed. The fourth and final version of events is told mostly from Lin Tai's point of view, and we see him creating a video that reenacts the murder, but with himself as the killer instead of his—spoiler alert—guilty daughter. If the driver's confession fails to convince the court, Lin Tai will take his place as the 'real killer' and Lin's daughter will go free. When Lin Tai is taken into custody, his plan is apparently successful, and Mengmeng is released.

But Zhou Li is worrying about the mysterious video and when she watches it again she notices a small difference from the CCTV video introduced as evidence at the trial: in one scene, the driver steps forward with the wrong foot. When Zhou replays it to be certain, she realises that the video is a fake and guesses that Lin Tai has filmed it. Upon further investigation, she finds a seemingly empty property in Lin Tai's home county, which proves to be the set where Lin has in fact staged and filmed the video. Now Zhou Li knows Lin Tai is innocent and meets with him to offer her services, which he declines. Meanwhile, prosecutor Tong Tao is still thinking about Lin Tai's puzzling reference to Dragon Back Wall as he was taken into custody, and like Zhou Li, Tong decides to investigate further ('something's not right'). He too goes to Lin's home county and finds the place where Lin Tai staged and filmed his video. When Tong Tao understands the extent of Lin Tai's efforts on his daughter's behalf and the way Lin has sacrificed himself to save her, he is overcome with emotion. With tears in his eyes, Tong phones his office and instructs his staff to file

¹⁴ *Silent Witness* is not a version of the 1993 movie *Groundhog Day*, although for a moment it looks as if it might be, with the replay of the television news reporters outside the court at the same time and place. In *Silent Witness*, however, each version of the story is told from the point of view of a different person, and only the viewer lives through these events (or at least some of them) more than once. All four perspectives are needed to understand the truth.

for a retrial the next day. Will he really follow through? We don't know—and it may or may not matter.

Lin Tai has left a video, along with messages, for Mengmeng, explaining the legend of Dragon Back Wall to her (as well as the audience). According to that legend, a king sacrificed himself for his wayward son, took Heaven's punishment in the son's stead and died in his place: 'It's the father's fault when the child hasn't been taught.' Deeply moved, the son repented his evil deeds and thereafter lived a principled life. Lin Tai obviously believes that when Mengmeng realises the extent of her father's sacrifice, then like the young prince in the legend she too will be reformed. And in the movie's final shot, a weeping Mengmeng stands in the pouring rain, her arms outstretched in a strikingly Christian image; we understand that she has been washed clean, she has been redeemed.

This ending might be viewed as a disappointment: what about the trial? In many courtroom dramas the case is, at least in some way, resolved in court, and we might have expected that *Silent Witness* would follow that script. But perhaps this film resolves what Fei Xing considered a more important story and depicts a different kind of justice, one that cannot be found in a court. If Lin Tai is exonerated and released, then his daughter will be punished and his sacrifice will have been in vain. Lin was corrupt long before this trial even if he was never successfully prosecuted, and during his daughter's trial he has faked evidence, given false testimony and generally engaged in obstruction of justice. Viewers may not want to see him sent to prison, but he can hardly be allowed to go free (at least during the current anti-corruption campaigns). Considered in this light, it is not easy to see where the story could go from here, or what would be a more satisfying ending. In any event, Fei Xing has a right to his vision and this is his idealised trial, even if in the end justice may be done out of court.

A Movie Called Dragon Back Mountain?

Many online Chinese commenters liked the Dragon Back legend and were moved by Lin Tai's sacrifice for his daughter, along with the emotional messages he recorded for her before his arrest.¹⁵ Certainly, a major theme of the *Silent Witness* narrative is the responsibility and love that parents feel for their children, a theme that strongly resonated with its Chinese audience and accounts for much of the film's appeal. Traditionally in Chinese society the parent-child relationship was the most important of all, and proper behaviour according to one's familial role was reflected in, or even outweighed, the formal rules. Under the law of the Qing dynasty, for example, people often had the right to conceal the crimes of their family members, an approach some commenters thought should be revived: parents will try at all costs to save their children from the grip of the law, one noted, which is only right as well as to be expected. From this perspective, Lin Tai is not just a corrupt tycoon who engages in obstruction of justice, he is a tragic hero because of the actions he takes to save his daughter, actions today's parents could understand very well. Indeed, one Chinese friend of mine thought the trial narrative was really a 'shell' for the movie's true subject: a parent's great love for (and duty towards) his child.

¹⁵ For that reason, one online commenter suggested that the movie's title should really be 'Dragon Back Mountain', available at: <<http://movie.mtime.com/175142/reviews/7677202.html>>. *Silent Witness* received many comments on this and other websites, including some very knowledgeable discussions of trial procedure.

Despite the many changes in contemporary Chinese society, family is still all-important and the parent-child relationship remains central; strict family planning has only tightened that bond, increasing the investment parents make in their children. Now most urban professionals have only one child, on whom they lavish all their love and care—and perhaps, like Mengmeng, those children are spoiled. But most Chinese viewers could identify with the parent and what he was willing to do for his child, while at the same time hoping that their own children will appreciate what their parents have done for them. So Fei Xing's declared message for *Silent Witness* was very much aimed at the younger generation: 'I want the single kids in China to watch the film and learn to actually appreciate the love they receive and not take it for granted.'¹⁶

I remain sceptical that this message has truly touched Mengmeng, so selfish and immature is her behaviour earlier in the movie. She looks like a classic member of the *fu'er dai* (i.e., second-generation rich kids), a group who are much resented for their ostentatious enjoyment of privilege and the wealth they themselves did not earn. Yes, Mengmeng is crying bitter tears and she now seems filled with regret, but she has in fact taken a life—has she really been reformed? It's true that other characters in this movie undergo personal transformations, most notably Lin Tai, who by film's end is no longer the corrupt and arrogant billionaire whom we first met but a loving father who is desperate to save his child, whatever the cost to himself. But I'm still afraid that Lin Tai's great sacrifice may have been in vain, and it's not enough to say he is guilty of something even if he did not commit this crime.

Justice Is Done Out of Court

Yet, however we interpret the film's meaning, the action in *Silent Witness* centres around a trial, and that is not by chance: Fei Xing has an interest in crime drama and is intrigued by stories in which events unfold from different perspectives, as his other work shows. Fei's depiction of criminal justice is therefore an essential part of the film, one that attracted attention and, like the parent-child bond, resonated with its Chinese viewers. In this respect, *Silent Witness* also had the benefit of good timing, in terms of both cinematic and real-life trials. The film was released in 2013 after several other 'crime thrillers', including *Cold War* (in late 2012)¹⁷ and *Christmas Rose* (mid-2013),¹⁸ along with 'exciting' TVB legal series from Hong Kong,¹⁹ all of which contributed to popular interest in the genre.

¹⁶ Velez, D 'NY Asian 2014' supra note 13.

¹⁷ Although *Cold War* (*Han Zhan*) is an action movie with police in the central roles, the film strongly emphasises the importance of law as well as order, a concern very much on the minds of Hong Kong people then (and now). See for example the discussion in Kuipers, R (2012) 'Review: Cold War,' *Variety*, October 4; and Teh, Y (2012) 'Film Review: "Cold War"' *South China Morning Post*, 8 November. Aaron Kwok has a leading role as an assistant police commissioner and, although the fate of Hong Kong apparently hangs in the balance, he behaves with a calm entirely absent from his tense *Silent Witness* performance. Many thanks to Marco Wan for suggesting this film to me.

¹⁸ Like *Silent Witness*, *Christmas Rose* (*Shengdan Meigui*) is a courtroom drama, but a far less coherent one. In that film, Aaron Kwok (perhaps coincidentally) plays another prosecutor, though in *Christmas Rose* his character is a rather nerdy, anxious former defence lawyer. *Christmas Rose* was ostensibly set in Hong Kong, but there is little that is identifiably local, including its court.

¹⁹ TVB was easily accessed in China when *Silent Witness* was first released, but watching these shows is now much more difficult. He, H et al. (2015) 'Dismay as Hong Kong TV Dramas Fall under China's 'Foreign' Production Censorship' *South China Morning Post*, 4 February.

More important, *Silent Witness* premiered in theatres in the middle of two real-life trials that attracted a great deal of media attention in China. Both trials opened in August 2013 and in both cases the verdicts were announced in September, shortly after *Silent Witness* was released. The first trial, of former Chongqing Party leader Bo Xilai, an obvious example of political theater that was heavily covered in official reporting, was almost impossible to ignore. The second trial, of a juvenile defendant named Li Tianyi, offered sensational charges as well as some striking parallels to the events depicted in *Silent Witness*.²⁰ Li, the son of two high-ranking army officials, was accused of gang rape, and security camera footage showed him dragging the victim into an elevator. Despite the very different offence, the Li case involved many of the same social and political issues as *Silent Witness*: a young defendant accused of a very serious crime, a member of the *fu'er dai* with the protection of powerful and well-known parents, a team of lawyers who were accused of questionable actions (for which they were sanctioned), and shocking security camera footage offered in evidence. Although the trial was closed because the defendants were minors, the facts offered plenty of fodder for the media to chew on, and public interest in the trial and its issues ran high.

However strong one's interest in criminal justice, it is not easy to attend trials in China, and in *Silent Witness* Fei Xing gives movie audiences a dramatic and close-up view.²¹ Fei also offers his viewers an overwhelmingly positive picture of the court and all its legal actors, something that—not coincidentally—isn't realistic at all. The courtroom and trial procedure have not only been cleaned up but to a great extent Americanised, with a few possibly Hong Kong elements thrown in for good measure. The *Silent Witness* courthouse is a handsome building, though, lacking pillars and granite, it is less imposing than many new courthouses in China.²² Unlike those courthouses, however, this one faces an open square with easy access for all participants, including the throng of reporters; no police barricades block them, no wire is stretched across the front of the building to restrict entry.²³ Although movie courtrooms are often depicted as closed worlds, on one wall large windows allow the light to stream in throughout the trial, which vaguely suggests a church as well as a courtroom. In such a courtroom, we feel sure that we could easily learn the truth, though actually in this case we do not.

An Anglo-American Courtroom?

The *Silent Witness* court is really an Anglo-American courtroom, despite the absence of a jury box, which every American trial court would have, and the presence of the dock,

²⁰ 'Li Tianyi: China Court Jails Army Singers' Son for Rape' *BBC News*, 26 September 2013. Cao Yin, 'Lawyers in Li Tianyi Case Punished' *China Daily*, 6 March 2014. The guilty verdict was announced on 26 September 2013. ²¹ Though some cases, including criminal cases, are now streamed online. See Finder, S (2016) 'Cameras in the Chinese Courts,' *Supreme Court Monitor*, 22 July, available at: <<https://supremepeoplescourtmonitor.com/2016/07/22/cameras-in-the-chinese-courts/>>.

²² As may be seen in the photos at <<http://bjgy.ts.chinacourt.org/index.html>>, for example.

²³ See Finder, S (2015) 'The Language of Architecture of the Courts, Mainland China and Hong Kong' *Supreme People's Court Monitor*, 6 September, contrasting the new Court of Final Appeal in Hong Kong and courts in China, which are shown barricaded off, available at: <<http://supremepeoplescourtmonitor.com/2015/09/16/the-language-of-architecture-of-the-courts-mainland-china-and-hong-kong/>>. Nor do we see any trace of steel doors to protect the judges and keep outraged complainants or their families out of the court, as one might find in China. Tatlow, DK (2015) 'Storming the Barriers around China's Judiciary' *New York Times*, 22 April.

which no U.S. courtroom contains but which is familiar from English criminal trials. Both the prosecution and the defence sit at the front of the courtroom, facing the judges, although in China they would ordinarily be placed near the bench at the front and side of the courtroom.²⁴ More strikingly, in *Silent Witness* both defence and prosecution freely approach the dock and the witness stand, though in fact they would never be permitted to do so in either the Chinese or the English systems.²⁵ But these changes shift the focus of the observer to the lawyers and their actions and thereby increase the adversarial (and theatrical) feel of the court. On this stage, the witnesses and the defendant in the dock face out towards the spectators, as they would in the US, not as in an actual Chinese court, where they face the judges (the decision-makers) instead. That means the spectators can all observe witness demeanour as well as hear what the witnesses are saying; not only does this make for better drama, it creates the impression that this trial is open to the observation of all: everyone is indeed a witness.

Judges and the Prosecution

In this very American setting, the judges behave very much like American or Hong Kong judges in court, focusing on procedure rather than directing the trial. The three judges (all men) look serious and professional in their black robes, but they are given little to do and only the chief judge speaks. These judges are reserved, and they play a far less active role than they ordinarily would in Chinese courts: they hardly question the defendant or any of the witnesses. More tellingly, although the events in *Silent Witness* are told from four points of view, none of them belongs to the judges.

In keeping with the adversarial system that Fei Xing presents, it is the prosecution and the defence teams that play the most active roles in the *Silent Witness* trial. Tong Tao, we learn from the reporters, is a 1997 law school graduate who now handles only the most important cases. As played by Aaron Kwok, in an intense, over-the-top performance, Tong Tao is a straight arrow, he is righteous and filled with a keen sense of mission. Like the other members of the prosecution team, Tong wears the standard prosecutor's uniform, although he sports a moustache, which would be strictly against the rules.²⁶ Tong is smart as well as squeaky-clean, and for him this trial is a personal as well as a professional battle: his first, unsuccessful case involved Lin Tai, and in the years since then Lin Tai has always escaped prosecution by buying off witnesses against him. Now the prosecutor is determined to convict Lin's daughter, and he makes this case his highest priority, underscoring the battle to win in court. Tong does have an excellent case against Mengmeng, but when he sees the fake video showing Lin Tai as the murderer, he immediately changes course. Tong Tao may truly believe in Lin's guilt, but even if he didn't that video is bait he could never resist.

²⁴ Inexplicably, they are placed on the wrong side of the courtroom; the prosecution ordinarily sits to the right of the judges, not on their left. This rearrangement does, however, make for a more dramatic entrance of defence counsel, as they pass in front of the already-seated prosecution team and they once again confront each other.

²⁵ Or in Hong Kong, which follows English procedure, with lawyers sitting at the bar table. This behaviour is obviously based on American practice, but it would be familiar to Chinese viewers of American courtroom drama.

²⁶ One of the four 'Heavenly Kings' of Hong Kong movies, Aaron Kwok can probably wear his hair any way he wants.

Of course, Tong's active participation in the conduct of the trial is not the role Chinese procurators play, although at least for American viewers it makes for far better drama. *Silent Witness* shows Tong examining witnesses, and in one courtroom shot he stands, looking more intense than ever, as he dramatically points an accusing finger at Lin Tai.²⁷ In this movie, the three members of the prosecution team also conduct the investigations, even though that would in fact be done by the police, and we see Tong Tao working out a theory of the case, complete with diagrams and photos pinned to the wall, as he prepares for battle with Zhou Li.

One version of *Silent Witness*²⁸ provides a brief and humanizing glimpse of Tong Tao at home with his wife. We learn that she is Mengmeng's art teacher and she refuses to believe in Mengmeng's guilt; she watches reports of the trial with the girl's classmates and even waits with the students to greet Mengmeng on her release. Perhaps this backstory, like the one for Zhou Li discussed below, was cut from the final version of the DVD as one twist too many. But including it raises a clear conflict of interest for Tong, as it would for a prosecutor in many systems, and he would not have been permitted to lead the case, no matter how desperately he wanted to do so.²⁹

Zhou Li and Her Defence Team

In *Silent Witness*, Tong Tao cannot be a villain: under a basic rule of thumb in Chinese movies no one in uniform can be bad.³⁰ A more intriguing aspect of *Silent Witness* is its positive depiction of defence lawyers and the large, completely inaccurate role they are allowed to play both in the court and outside it; Zhou Li gets equal time in the story. It's hardly surprising that the prosecutor is shown as dedicated and upright, but it's notable that in *Silent Witness* the defence lawyer is also honourable and smart. As played by Yu Nan, Zhou Li is calm and confident, very controlled, all in sharp contrast to the tightly wound performance by Kwok as her opposing prosecutor. Zhou shows little emotion until late in the film, when she at first believes that Lin Tai has framed his own daughter and then understands that he is actually taking the blame for Mengmeng's crime.

In this important case, Zhou Li is supported by a team of two junior lawyers and a senior investigator, an unusually large legal team in China. Zhou herself is not only a top lawyer, she is the highest paid defence lawyer in China, and she will earn RMB 5,000,000

²⁷ In what Chinese netizens recognised as a rather cartoonish Phoenix Wright Ace Attorney pose, from the Japanese video game, available at: <<http://kotaku.com/phoenix-wright-should-be-a-chinese-actor-say-chinese-n-1370051915>> 23 September 2013.

²⁸ Possibly a Hong Kong version of the movie: the English and Chinese subtitles appear together, as they do (or used to) in many Hong Kong movies.

²⁹ Tong Tao's pursuit of Lin Tai in earlier cases would also have kept him from handling Mengmeng's trial.

³⁰ Under 2008 pre-SAPPRFT guidelines, films that contained content disparaging the image of the army, armed police, public security or the judiciary must be cut. Cain, R (2011) 'How to be Censored in China: A Brief Filmmaking Guide' *Indiewire*, November 30, available at: <<http://www.indiewire.com/2011/11/how-to-be-censored-in-china-a-brief-filmmaking-guide-50870/>>. China's first general film law, the Film Industry Promotion Law of the PRC (*Zhonghua Renmin Gonghe Guo Dianying Chanye Zujin Fa*), was adopted by the Standing Committee of the National People's Congress on 7 November 2016 and went into effect on 1 March 2017. Under Article 16(5) of that law, films may not include content that would 'endanger social morality; disrupt social order; undermine social stability; promote pornography, gambling, drug use, violence or terror; instigate crimes or impart criminal methods' available at: <<http://www.lawinfochina.com/display.aspx?id=22922&lib=law>>.

(close to US\$1 million at the time) for her work in the trial, plus a large bonus if she wins an acquittal. Like prosecutors and judges, Chinese lawyers have uniforms, but they do not always wear them and Zhou Li appears in designer outfits throughout the film.³¹ She likes fast cars as well as expensive clothes, and her office is so large and luxuriously furnished that at first I mistook it for the lobby of a five-star hotel. In one version of *Silent Witness*, we learn that Zhou Li is a divorced single mother, which Lin Tai knows. Lin believes that, as a mother herself, she will be angry if she thinks he has framed his own daughter or let her go on trial in his stead, which will make Zhou more likely to follow his plan and pass on the video to the prosecution (he is right).³²

Zhou Li's original defence strategy on behalf of her client is to create a sympathetic public image of Mengmeng, emphasizing her youth, which Zhou hopes will bring her a reduced sentence, perhaps fifteen years. In fact, Chinese defence lawyers have used just such techniques, relying on media reports to gain popular support for their clients, although under new rules this will become more difficult in future.³³ Many lawyers believe in showing the defendant's repentance and pleading extenuating circumstances in hopes of gaining leniency for their client, and it is standard to argue mitigation rather than innocence. Given the extremely high conviction rates in China,³⁴ that is not an unreasonable approach, and in fact all the evidence, at least as the trial opens, strongly indicates that Mengmeng is guilty. But Lin Tai, who is paying the bills for his daughter's defence, absolutely rejects that strategy and demands that her lawyers seek an acquittal. So Zhou Li calls and cross-examines witnesses and pursues an independent investigation, playing an active defence role that in reality Chinese lawyers could not undertake. Once Mengmeng is released, however, Zhou's work appears to be done.

But Zhou Li wants to do the right thing and she wants to know the truth—Zhou believes she owes a duty to the truth and not simply to her client, in strong contrast to the role of lawyers in the US. That leads Zhou to learn what she can about Lin Tai's driver, and then to pay for the video that promises to reveal the real murderer. At the same time, her actions reflect the difficult position defence lawyers are placed in, under the Chinese criminal justice system. Zhou Li may want the video that can exonerate her client, and she wants the prosecution to see it, but she is worried about being connected to the video if it proves to be a fake; she cannot be seen as Lin Tai's accomplice and must keep proof that she is not. There is absolutely no doubt Zhou is right to be concerned: under Article 306 of the Criminal Law, lawyers can be prosecuted if they put on too vigorous a defence and the court views evidence they submit as false or unreliable.³⁵

³¹ See McConville, M (2011) *Criminal Justice in China: An Empirical Inquiry* Edward Elgar Publishing at 213.

³² Velez, D 'NY Asian 2014' supra note 13.

³³ Releasing information from case files is prohibited under recent rules. See Jun, M (2015) 'China's Legal Rights: Lawyers Win Some, Lose Some' *South China Morning Post*, 20 September.

³⁴ Over 99%. Shan, Y (2016) '2015 Another Difficult Year for Criminal Defendants, Data Show' *Caixin Online*, 26 February, available at: <<http://english.caixin.com/2016-02-26/100913241.html>>.

³⁵ Even prominent attorneys have been tried and convicted of this offence. For an analysis of one well-known case, see the Congressional-Executive Commission on China (2003) 'Defence Lawyers Turned Defendants: Zhang Jianzhong and the Criminal Prosecution of Defence Lawyers in China' 27 May, available at: <<http://www.cecc.gov/publications/issue-papers/defense-lawyers-turned-defendants-zhang-jianzhong-and-the-criminal>>. For a broader discussion of the difficulties defence lawyers face, see Liu, S and Halliday, T (2008) 'Dancing Handcuffed in the Minefield: Survival Strategies of Defence Lawyers in China's Criminal Justice System' 4 May. Centre on Law and Globalization Research Paper No. 08-04, available at: <SSRN: <http://ssrn.com/abstract=1269536> or <http://dx.doi.org/10.2139/ssrn.1269536>>. Since the '709' crackdown on lawyers launched on

Some of Zhou Li's actions, however, would set off alarm bells in other legal systems, including the American. In speaking with her team, she calls Lin Tai their *laoban* (boss)—but surely Mengmeng is the client, regardless of who is paying the bills, and it is to Mengmeng that their duty is owed. At one point during Mengmeng's trial, Zhou Li even refers to Lin Tai as the client ('no lawyer in the world is supposed to do what is bad for his client'), although she still passes on the incriminating video of him to the prosecution. Her later change of heart also raises conflict of interest issues; whatever her good intentions, she cannot possibly represent Lin Tai after defending his daughter, even if her highest duty is to the 'truth.' In any event, Lin rejects her offer to represent him because he has no desire to be acquitted or even defended: on the contrary, his goal is conviction.

What Kind of Trial Is This?

As even this brief discussion shows, Fei Xing's adversarial version of a Chinese trial is a highly fanciful depiction, and Chinese friends who watched the movie with me immediately began to point out inaccuracies, both major and minor.³⁶ Mengmeng's trial bears little relationship to actual Chinese trials, in which the evidence presented in court is incidental to the verdict, and in most cases the verdict can hardly be in doubt. Despite major criminal procedure reforms that at least in theory make the process more adversarial, in practice there may still be 'little that resembles adversarial behaviour.'³⁷ Judges remain the dominant figures in the conduct of trials and the procuracy controls the evidence, which means that defence lawyers if present have little role to play in the process.³⁸ How could Fei Xing get it so wrong? American and English courtroom dramas are also full of errors for a multitude of reasons, and much ink has been spilled in pointing them out. But even if Fei Xing consulted legal experts in China, he obviously preferred to adapt the procedure to his story, reimagining the usual courtroom setting to heighten the drama.

For anyone from an Anglo-American system, this court and this procedure must be attractive, doubtless because Fei shows us a version of the system we view as the norm, at least in the movies, though possibly also in court.³⁹ But Chinese friends with legal expertise disapproved of key aspects of the *Silent Witness* trial, and for exactly that reason. They professed shock at the courtroom confessions, when witnesses (two of them!) broke down under questioning on the stand and admitted to the crime. They also emphasised the requirement that conviction in a criminal case must be based on a complete chain of evidence, not on oral confessions suddenly made in court, and they assured me that any prosecutor who trapped someone into such a confession would certainly be sanctioned. In

July 9, 2015, however, more lawyers viewed as 'rights defence' lawyers have been detained and tried. See Human Rights in China (2017) 'Mass Crackdown on Chinese Lawyers and Defenders' 16 February, available at <<http://www.hrichina.org/en/mass-crackdown-chinese-lawyers-and-defenders>>.

³⁶ One online summary listed some thirty-five inaccuracies, ranging from the major to the very trivial, in the trial and procedure depicted in *Silent Witness*, available at: <<http://yulu.1kejian.com/show-23-10689-1.html>>.

³⁷ In trials observed by the contributors, prosecutors did not ordinarily produce witnesses in court but instead read out narratives prepared by their office or the police. McConville, M *supra* note 32 at 291. In those cases, defence lawyers were unlikely to present a statement even if the prosecution did. *Ibid* at 201, 251.

³⁸ *Ibid* at 284, 288, 291, 316-318. If the prosecution does not present witnesses in court, the defence has no opportunity to cross-examine them. Many witnesses don't wish to be involved, and as a result many lawyers are inactive during the trial.

³⁹ See Asimow, M 'Popular Culture' *supra* note 7.

addition, several experts viewed the judges as weak rather than impartial, and criticised them for leaving everything to the prosecution instead of conducting the examination themselves.

Such criticisms tend to focus on the rules of criminal procedure, which have been improving, not the actual Chinese practice, where the most serious problems lie. Analysis of practice would lead to much tougher comments—in particular, forced confessions, which are extracted by police, not by prosecutors in court,⁴⁰ and the persecution of lawyers, especially those viewed as rights defenders who handle political cases or simply appear to challenge the state. Whatever their rights on paper, it is difficult for Chinese lawyers to mount a serious defence, and there is no way they could play the role that Zhou Li does in the *Silent Witness* trial. But in the end, as one commenter said, this is ‘only a movie’ and it is obviously not meant as a critique of the Chinese criminal justice system.

At the same time, *Silent Witness* presents a vivid picture of how a different Chinese system might work, a system that, at least in part, the rules would now seem to require. Criminal procedure reforms that went into effect in 2013, the year this movie was released, certainly envisioned a more open and adversarial trial. Those reforms strengthened the obligations of witnesses to appear in court,⁴¹ and at least on paper gave stronger protection to criminal suspects, allowing lawyers to do more on their behalf.⁴² A Communist Party decision adopted late the following year affirmed the goal of establishing a ‘trial-centred’ rather than an investigation-centred system,⁴³ and the Supreme People’s Court fifth five-year plan released in 2015 emphasised requirements that evidence should be presented in court and witnesses required to appear.⁴⁴ Unfortunately, *Silent Witness* depicts procedural protections that do not really exist outside the movies, but what if Chinese courts implemented these reforms? This movie must make such a system—one that offers an accused a true opportunity to present a defence in court—look very appealing to many of its viewers.

At the same time, despite the director’s embrace of an adversarial, English- or American-style movie trial, *Silent Witness* reflects some traditional Chinese ideas of justice, even if

⁴⁰ The use of forced confessions remains a very serious issue in the Chinese criminal justice system, but it is the police who obtain them while suspects are detained—not the prosecution in open trials. See for example, Amnesty International (2015) *No End in Sight: Torture and Forced Confessions in China*, Amnesty International Publications 2015. The report is summarised in ‘China: Torture and Forced Confessions Rampant amid Systematic Trampling of Lawyers’ Rights,’ 12 November 2015, available at: <<https://www.amnesty.org/en/latest/news/2015/11/china-torture-forced-confession/>>. Such confessions have also been televised before the trial, despite widespread criticism of the practice. Lubman, S (2016) ‘China’s Highest Court Eyes Judicial Reform, While a Lawyer Criticizes TV Confessions’ *Wall Street Journal*, 11 March. ‘Beijing’s Televised Confessions,’ ChinaFile, 20 January 2016, available at: <<https://www.chinafile.com/conversation/beijings-televised-confessions>>.

⁴¹ It is still common practice for statements to be read in court and in most cases judges refuse lawyers’ requests to call witnesses; witnesses may appear in only 5 percent of criminal cases. Li, Y (2014) *The Judicial System and Reform in Post-Mao China* Ashgate Publishing Co. at 98–101.

⁴² *Ibid* at 108 ff.

⁴³ The Fourth Plenum Decision was adopted at the 4th Plenary Session of the 18th Central Committee of the Chinese Communist Party on October 23, 2014.

⁴⁴ See Finder, S (2015) ‘Supreme People’s Court’s 4th Five Year Reform Plan Sees the Light of Day’ *Supreme People’s Court Monitor*, 26 February available at: <<https://supremepeoplescourtmonitor.com/author/susanafinder/page/17/>>. The Plan (covering 2014–2018) includes details of what a hearing-centred procedure would mean, including the presentation of evidence and a greater role for defence attorneys, who would have equal status with the prosecution. The plan would also prohibit forcing the defendant to wear prison clothing and shackles in court—as Mengmeng does in *Silent Witness*. The Court’s Five-Year Plan is available at: <http://news.xinhuanet.com/legal/2015-02/26/c_127520462.htm>.

it does not feature a modern reincarnation of Judge Bao. Although the movie presents different versions of events, ultimately these are not in conflict, nor do they suggest that there are different perceptions of reality or that the truth cannot be known: *Silent Witness* is not *Rashomon*. Traditional Chinese courts sought to learn the truth and officials thought it was possible to do so; they did not believe that the truth is known only to God and mortals must make do with less. Thus the movie's different perspectives on events, revealed in the four versions of the trial, allow the audience as well as the characters to see the whole story; they allow us to know the truth. That reminds us not only of earlier Chinese courtroom dramas, in which the facts are all discovered, even though by the judge, but of the goals of traditional Chinese trials, which those dramas naturally reflected.⁴⁵

Although *Silent Witness* is about more than one kind of justice, the courtroom scenes and the due process the trial embodies account at least in part for the movie's appeal in China. It is my experience, for example, that Chinese students are much more interested in criminal than civil movie trials, probably because in criminal trials more is at stake, and it is also in line with traditional drama; as a rule, Judge Bao solves criminal cases. Many of my Chinese students were familiar with American courtroom drama, and they liked that genre's narrative and suspense, as well as the ideas of justice they found in many of the films.⁴⁶ In addition, *Silent Witness* presents its viewers with a model system that is transparent and seems to work well, all things that non-lawyers found very attractive, even if they know it is false. And one legal expert friend of mine, after emphasizing how inaccurate the film is, still told me he liked some of the procedure it depicts, and overall he judged it an 'an excellent Chinese court entertainment movie.'

THE SECOND TRIAL: 12 CITIZENS

Background

However familiar Americans might find the *Silent Witness* trial, one essential player is conspicuously absent from the courtroom in that film: despite the seriousness of the charge, there is no jury. At first glance, in contrast to *Silent Witness*, *12 Citizens* shows us almost nothing of the court and the trial itself is not real. But both films depict aspects of a common law trial that is at least theoretically set in China. Of the two films discussed in this essay, *12 Citizens* is doubtless the more serious in every sense and, although it reached a much smaller Chinese audience in theaters, it was of particular interest to legal professionals.⁴⁷

⁴⁵ The Japanese scholar Shiga Shūzo argued that traditional Chinese trials were not adjudications, in which an adjudicated truth was accepted. Instead the judge was charged with learning the actual truth. Shiga, S (1974) 'Criminal Procedure in the Ch'ing Dynasty: With Emphasis on Its Administrative Character and Some Allusion to Its Historical Antecedents' 32 *Memoirs of the Research Department of the Tōyō Bunko* 1, 115.

⁴⁶ See Machura, S (2015) 'Procedural Unfairness in Real and Film Trials: Why Do Audiences Understand Stories Placed in Foreign Legal Systems' in Freeman, M *Law and Popular Culture* supra note 7. Many audiences, including Chinese audiences, are familiar with Hollywood courtroom dramas, which can influence the storylines of trial movies outside the US.

⁴⁷ The film's earnings in theatres fell far below those of *Silent Witness*. *12 Citizens* grossed only US\$2,040,000 at the box office and ranked #147 in a list of 164 films, including Chinese and foreign films released in China that year, available at: <<http://www.boxofficemojo.com/intl/china/yearly/?yr=2015&sort=gross&order=ASC&p=.htm>>.

12 Citizens is based on the Reginald Rose 1954 teleplay *12 Angry Men* as well as the 1957 movie of the same name directed by Sidney Lumet.⁴⁸ The Chinese movie was directed and co-written by Xu Ang, who is affiliated with the Beijing People's Art Theatre and is known for his stage work rather than film. *12 Citizens* premiered at the Rome Film Festival in late 2014 and then was released in Chinese theatres in May of the following year. On the whole, it met with a positive reception in China,⁴⁹ and Xu Ang won Chinese awards for his direction and the screenplay he adapted and co-wrote.⁵⁰ The film, with good production values and better English subtitles than most Chinese movies, including *Silent Witness*, also received positive reviews in the English-language press.⁵¹ To my surprise, it turns out that *12 Angry Men* is something of a cult film in China; my students certainly knew its place in the American cinema firmament and were themselves huge fans.⁵² Like its American model, *12 Citizens* began as a play, and many of my students had seen that too when it was performed at our Shanghai university in spring 2014.

Silent Witness is very much a movie, with multiple points of view, a fast pace, and action that would be virtually impossible to present on a stage. But *12 Citizens* is really filmed theatre, and its acting belongs to the world of the playhouse; its stars, like the director, are all affiliated with the Beijing People's Art Theatre or the National Theatre of China, even if they have television or movie experience. In addition, almost everything takes place in one room, though for purposes of his plot Xu Ang opens up the action at both the beginning and the end of the film.⁵³ In most respects, despite its very different social and political setting, Xu's film is remarkably faithful to the original story, but the director has introduced a series of smaller adjustments for the benefit of Chinese viewers, along with several striking, very major changes. Some version of the first adaptation was necessary to make the story work in China, but the other two turn the original message of *12 Angry Men* on its head.

In *Silent Witness*, Fei Xing could simply re-imagine the trial as highly adversarial for the sake of his story, and audiences could choose to suspend disbelief, at least in the theatre. But Chinese court procedure does not include juries of the kind shown in this movie,⁵⁴ so *12 Citizens* must rely on an artificial device to introduce their deliberations. Thus we learn

⁴⁸ *12 Citizens* is not the first international remake of *12 Angry Men*. A Russian version *12* was filmed in 2009. Holden, S (2009) 'They the Jury' *New York Times* 3 March.

⁴⁹ The film scored an 8.2/10 on Douban.com, with 95,400 reviews, available at: <<https://movie.douban.com/subject/24875534/>>.

⁵⁰ Xu won the 2016 Shanghai Film Critics Award for best director and, with his co-writers Li Yujiao and Han Jinglong, also won the 2015 Golden Rooster award for best adapted screenplay.

⁵¹ For example Elley, D (2015) 'Engrossing Adaptation of *12 Angry Men* is Superbly Written and Played' *Film Business Asia*, 13 June 2015. Makinen, J (2015) 'Chinese Remake of "*12 Angry Men*" Faced Its Own Legal Drama' *Los Angeles Times*, 23 September.

⁵² *12 Angry Men* has been described as a 'must-see film for law students,' and many Chinese legal professionals and academics have seen it. 'Trial by jury' *Week in China*, 5 June 2015, available at: <<https://www.weekinchina.com/2015/06/trial-by-jury/>>. But *12 Angry Men* (known as *Shi'er Nuhan* in China) turns out to be No. 24 among the top 250 foreign films rated on Douban.com, with a 9.3 rating. <<https://movie.douban.com/subject/1293182/>>.

⁵³ Which is probably why *12 Citizens* is slightly longer (about 103 minutes) than the original, which clocks in at 96 minutes. The deliberations in the jury room are filmed in real time in both films, about 90 minutes in *12 Citizens*.

⁵⁴ There is no Western-style jury, but in the 1950s the PRC instituted a 'people's assessor system' (*peishenyuan zhidu*) that provided for some popular participation in trial decisions. Applied to various extents in different places, it fell out of favour and in the 1990s some scholars even proposed its abolition. But in the twenty-first century the people's assessor system has been revived, with the support of Chinese legal scholars. See Li, Y *Judicial System and Reform* supra note 42 at 28-32.

that, as a final graduation exercise, a Beijing law school has organised a mock trial in the American style, with students playing all the roles, which are clearly marked on the floor in Chinese and English, doubtless for the benefit of the Chinese audience. The students are arguing a case before a jury (*peishentuan*), which is composed of parents of the students or people with some connection to the law school, all of whom have agreed to render a verdict in the case. To make the exercise more realistic as well as more interesting, the students have supposedly been assigned the facts of an actual case for their trial, which we learn at the very beginning of the movie.

As the film opens, a news announcer reports that a young man who was raised by his wealthy stepfather is accused of murdering his birth father, a Henan peasant who abandoned him as a child but was pressuring him for money. The procuracy (i.e., the prosecution) dismissed the case for lack of evidence,⁵⁵ but the facts and the evidence in the case were discussed and debated widely in the media, and in many law school classrooms as well. As part of the news report, the possible evidence against the suspect is summarised and re-enacted for benefit of the movie audience. All that evidence seems compelling—surely the young man is guilty, but could he in fact be innocent? That is what this law school jury must decide.

A Chinese Jury?

At the conclusion of the mock trial, the jurors are instructed they must not only deliberate seriously but also reach a unanimous verdict, something Chinese viewers might not know; otherwise the students, who are mostly their children, will fail the mock trial assignment and cannot graduate from law school. Their jury room proves to be a large area without windows in what looks like a warehouse, with a table and twelve chairs set out for their deliberations—rather basic accommodation for a contemporary Beijing university to provide. In *12 Citizens*, Xu Ang does not reproduce or even suggest the setting and atmosphere of the original film (this must be intentional), although his arrangement does emphasise the jury's isolation from the outside world. The warehouse seems to have no air-conditioning or even very good lighting, but it offers plenty of space, allowing the jurors to walk around freely, moving away from the table and each other whenever they wish. In any event, this space lacks the claustrophobic feel of *12 Angry Men's* small hot jury room on the worst day of summer; in *12 Citizens*, the jurors may become overwrought during the course of their deliberations, but they never look very hot.

The mock trial is an artificial device, so the drama must be intrinsically less gripping to an American, or perhaps any, audience because the stakes are not very high: no one will be executed or have his life spared as a result of this jury's decision. To be sure, the trial is supposedly based on a real case that has captured popular attention, so these pretend jurors are more likely to discuss it, but it's clear during the deliberations that they have not all forgotten the purpose of the exercise they are engaged in. As viewers we may become sufficiently absorbed in the drama played out in the jury room that we forget no real case exists, although in my experience Chinese viewers who had seen the original American film did not. In the end, the drama in *12 Citizens* must come from the different personalities

⁵⁵ *Zuochule cunyi buqisu de jue ding* (literally, made a decision to leave it open and not prosecute).

and backgrounds of the jurors, even if this cannot really justify the increasingly heated nature of their debate.

12 Citizens was made some sixty years after the original American play, but like the Russian version it too preserves the all-male jury, even though there are now many women in Chinese law schools and they may hold senior legal positions. Perhaps the writers were assuming that the drama would be greater, and the conflicts more open, if all the jurors were men, and they saw no reason to make a change. The Chinese movie retains the mix of occupations and classes of the jurors in the original film, while introducing current Chinese social and economic concerns, including the large disparities in wealth and the outsize role of the university entrance examinations in many young people's lives. Thus, this Chinese jury includes a local taxi driver, a math professor, a rich real estate owner, a small shop owner, a doctor, a security guard at the school, an older retiree, and a possible gangster with a menacing air, as well as a couple of others not so clearly identified. Although the facts in the case are essentially the same as in *12 Angry Men* (the evidence they discuss certainly is), the mock trial defendant has been changed from a poor young man from the slums to the son of a rich man; like Mengmeng in *Silent Witness* he is a member of the *fu'er dai*. The movie suggests that the defendant's wealth could lead to prejudice against him, and in fact some of the jurors cannot hide their resentment at the difference between their status and his, or their scorn for his origins in Henan.

In any event, these jurors are all contemporary Beijing types, reinterpreted and somewhat exaggerated for the film's audience in China, and their interactions reflect local attitudes and local colour. The security guard is also from Henan, for example, a poor province whose residents are looked down upon by Beijing people as peasants or cheaters and profiteers. The real estate owner proves to be a 'foster parent' rather than a parent of the woman student he is sponsoring, and the 'gangster' turns out to be a man from a poor part of town who was wrongly sentenced to prison (though he does know an awful lot about knives). Even political issues are introduced when the oldest member of the jury, a retiree, recounts his suffering during the 1957 Anti-Rightist movement, still a sensitive reference and a little surprising to find in this film. As in *12 Angry Men*, Juror No. 8 is the key figure in the deliberations and, as played by the television and film actor He Bing, he did at first remind me a little of Henry Fonda in the original version. In the end, however, he too proves to be a very Beijing and definitely not an American type.

The Jury's Deliberations

Juror No. 1 (as in *12 Angry Men* they are all known by number and not by name) is an assistant law professor who has been assigned to serve as the foreman of the jury, and he calls the group to order. At the outset, Juror No. 8 requests a straw vote to see where the consensus lies: immediately eleven of the jurors vote guilty, with No. 8 the only dissenter. The other jurors insist that the guilty verdict is obvious, but No. 8 replies that, 'I just want to discuss it. That is what the law school asked us to do [...] the case is real and could mean a death sentence.' Although No. 8 believes that they must take the case seriously and debate all the evidence, he agrees that if he receives no support on the next vote he will defer to the majority opinion. To the surprise of the other jurors, he gets it, from Juror No. 9, the retiree whose experience has disposed him to think everyone deserves a chance. From then on No. 8 works to persuade the others to analyse the evidence with him and then to accept there is doubt and cast their vote for acquittal. From that first vote of 11-1

for conviction, the jurors eventually move to a 6-6 split—at which point the lights and the fan are turned on; during their deliberations, the room has gradually grown darker as a thunderstorm crashes outside.⁵⁶ When the vote reaches 9-3 for not guilty, No. 8 tells the three holdouts that, ‘now you must convince us of your position,’ and the momentum is clearly towards acquittal.

In all their discussion, Juror No. 8 is not so much an advocate as an impartial and reasonable man going wherever the evidence leads and, at least in retrospect, he has the most memorable as well as the most compelling lines. Early on he tells the others that, ‘Our job is to decide whether we have enough elements to doubt the accused’s culpability based on the evidence.’ He reminds them that ‘nothing is ever 100% certain. The truth lies in the smallest details.’ And ‘We’re in a law school. The students took this seriously—one day they may be judges and make these decisions.’ Finally and most dramatically, ‘[T]his is about the future of a fair legal system!’

Finally, close to exhaustion, the jurors vote 11-1 for acquittal. The last holdout for conviction is Juror No. 3, the taxi driver; he now firmly declares that he will never change his mind. From the beginning, the taxi driver has been No. 8’s fiercest opponent; difficult and antagonistic throughout, he repeatedly denounces the young defendant and is sharply critical of the whole disrespectful generation to which he belongs. But at last we learn the reason for Juror No. 3’s bitterness: his own son, whom he dearly loved, defied him as a teenager; when the taxi driver struck him, they fought, and the boy ran away. The driver’s wife subsequently divorced him, and for six years he has neither seen nor heard from his only child. When the taxi driver breaks down completely and sobs as he recounts his story, Juror No. 8 comforts him, while drawing him back to the table. In a brilliant shot of the final vote, we see the twelve men seated in their places around the table, each one with his hand raised to vote not guilty, including Juror No. 3, whose head is bowed in utter submission as well as terrible grief. The audience is left with this striking tableau of the jury as the camera fades to black.

Who Is Juror No. 8?

The movie’s final sequence, as the jurors leave the law school, is nicely done. The day is almost over and the pastel tones of blue and green in campus buildings are bathed in the setting sun’s light; the storm we heard outside the warehouse has passed and the streets have been washed clean. Juror No. 1, the assistant professor, has at last been released from his troublesome assignment and he strides off first, hurrying away to his own concerns. As the other jurors leave, the security guard helps the shop owner with his overturned bike; these two, who are both dependent on the law school for their living, appear to have formed a bond. The rest of the jurors walk separately, just as they are each going their separate ways, for now that their task is completed the men are once again individuals with very different lives. We sense their satisfaction as they walk out into this beautiful calm evening, each perhaps reflecting on their joint enterprise and the role he has played in it. But it is a poignant moment, because we know that some lives are so much harder than others, and out in the world these jurors will no longer deal as equals who have the same

⁵⁶ This follows the plot of *12 Angry Men*, in which the jurors get the fan working when the vote is split 6-6. In *12 Citizens*, the room is lighter and presumably cooler as the feeling of the group begins to change.

vote. Most of the jurors are met by their children, and the rich real estate owner's girlfriend is waiting for him at his car—only the taxi driver is alone, for the reason we now know.

But then a jarring note is introduced to an affecting sequence that should really end the movie (spoiler alert). The last member of the jury we see leaving is Juror No. 8, and he is smiling, perhaps reflecting on his success, as he walks up to his waiting son. As he reaches into his jacket, he suddenly turns and rushes back to the room to retrieve a missing item. There on his chair is his badge and official ID of the procuracy: in a close-up we read that his name is Lu Gang and he is a prosecutor. He snaps the wallet shut and leaves the room, taking only a moment to glance back at the table before he exits. As the camera fades to black, this announcement about the 'real case' appears on the screen: 'The procuracy affirmed the decision of non-prosecution with doubt. [Then] the real murderer was arrested one month later.' A door slams shut, and the credits roll. Lu Gang is the only juror whose name we learn in the movie, and in the cast list at the end he is the only one whose name is given instead of his number; it's hardly surprising that he gets top billing.

Eleven Citizens and One Professional?

In the last few moments of *12 Citizens*, the writers make two major changes to the plot that completely subvert the message of the original play and film, the first and most important of which is the occupation of Juror No. 8. At the end of *12 Angry Men*, we learn that juror's occupation: he is an architect, an ordinary citizen even if he is an educated man, but in *12 Citizens* Juror No. 8 is a judicial official, hardly an ordinary member of the jury. So the hero is a judicial professional, the one who questions the guilt of the defendant and refuses to convict someone without thoroughly examining the evidence. To be sure, No. 8's approach to the jury's deliberations and the ultimate decision remains admirable—isn't this what a legal system should be? But making him a prosecutor fundamentally changes the meaning of the original movie, and on my first viewing of the Chinese film I was both surprised and dismayed, even though I really should have seen it coming: No. 8 is not Henry Fonda after all, he is Judge Bao.⁵⁷

Why would the writers make such a major change? One possibility is an honest belief that untrained citizens simply could not analyse the evidence or reach a reasoned decision based on the facts, a completely understandable view that is shared by professionals in other legal systems, not just the Chinese. It is therefore no accident that No. 8 is a prosecutor, because at least in theory it is prosecutors who can sift facts and find the truth. So one can depict the jury and hold it up as a model but not really believe it in one's heart, and perhaps the legal professionals who critiqued aspects of the trial in *Silent Witness* were of a similar view. A more plausible answer is censorship or self-censorship, and there is no doubt that in many respects the political atmosphere had tightened by the time *12*

⁵⁷ This change would be especially disturbing to American audiences, partly because they couldn't help seeing Henry Fonda's performance as Juror No. 8 'in light of the iconic character he constructed' in his movies, a 'commonsense character who sees issues more clearly than other people and who will stand up, alone if necessary, to address potential legal wrongs.' Asimow, M and Mader, S (2013) *Law and Popular Culture: A Coursebook* (2nd ed) Peter Lang at 183. But at least some Chinese viewers, especially if they knew the original film, disliked this change too. According to one review, 'the twist at the end is awkwardly executed, and leaves the whole film as an ultimately dissatisfying experience.' '12 Citizens' *Global Times*, 24 May 2015.

Citizens was filmed in 2014.⁵⁸ The final frame of *12 Citizens* gives co-production credit to the China Prosecutors Federation of Literature and Art (*Zhongguo Jianchaguan Wenxue Yishu Lianhe Hui*), the Liaoning Prosecutors Federation of Literature and Art, and the Beijing Prosecutors Federation of Literature and Art. The China Prosecutors Federation not only approved the movie but even invested in it, according to Xu Ang, with the government contributing US\$300,000, about half the film's budget.⁵⁹

It is therefore no coincidence that *12 Citizens* changes the meaning of the jury as a non-state institution, intended to serve as a buffer between the citizen and the state. These jurors may be voting, but they are not left alone to make their own decision—this jury is controlled, just as judicial reforms can only take place under Party control. In this respect, *12 Citizens* has taken the character of the prosecutor at least one step further than *Silent Witness* did. Not only is this official a good guy, righteous and dedicated like Tong Tao, it seems the prosecutor is the only truly good guy in the room; only he could have led these jurors to consider the evidence without prejudice and then reach the right result.

We Learn the Truth (Again)

Viewers can be certain it is the right result because of the second major change to the plot. In *12 Angry Men* we never know, we cannot know, whether the defendant committed the crime, but only that that the jurors found reasonable doubt and delivered a verdict of not guilty. Over the years, some commentators have argued that the defendant in *12 Angry Men* must have been guilty—how could so much evidence have been wrong?⁶⁰ But in the original American version, you must reach your own conclusions and live with any uncertainty you feel. That's the point; it's the procedure that matters, even if we cannot know the absolute truth. But the Chinese version doesn't leave it there, and at the very end of *12 Citizens*, we read the conclusion of the actual case the students mooted: the prosecution once again had doubts about the evidence and the suspect was released. The next month, the real killer was found and confessed to the murder. Consequently, even though the Chinese version closely follows *12 Angry Men* in many respects, it departs from the script in that film's most important ideas.

Silent Witness also reflects a Chinese preference to know the truth, along with the belief that one can learn it, but *12 Citizens* takes this one step further: if an official reaches a conclusion, the audience cannot be left to doubt the correctness of his actions. Lesser mortals may make mistakes or have to live with their doubts—but officials (and the Party) do not. The jury, led by Juror No. 8, does discuss reasonable doubt, and he declares that 'nothing is ever 100% certain. The truth lies in the smallest details.' But the changes *12 Citizens* makes at the movie's close suggest that knowing the truth is the only satisfactory ending, which completely undercuts the point of the exercise: twelve people who seriously consider the evidence to decide if there is reasonable doubt.

⁵⁸ After the 18th Party Congress, held in late 2012, and the appointment of Xi Jinping as Party Secretary.

⁵⁹ Quoted in Makinen, J, 'Chinese Remake' *supra* note 52. *12 Citizens* did not perform nearly as well at the box office as *Silent Witness*, though I don't doubt that it will be shown to judicial officers and law students and will continue to have a solid audience there, even if many Chinese film buffs prefer the original movie.

⁶⁰ For example, see the discussion of *12 Angry Men* in Bergman, P and Asimow, M (2006) *Reel Justice: The Courtroom Goes to the Movies* (rev. ed) Andrews McMeel Publishing at 25-26.

It is true that the original *12 Angry Men* is not uncritical of the jury — without Juror No. 8 the decision could easily have gone the other way. Nor is the jury a perfect institution or, despite the US Constitutional guarantees and the presumption of innocence we revere, is it used that much anymore, at least outside the movies.⁶¹ In any event, these are very much common law and in particular American values and the Chinese need not worship at that shrine. Based on the original film, one could debate the efficacy and value of the jury, and draw very negative conclusions about criminal justice in the US. What kind of system, after all, leaves such an important decision to untrained and possibly very biased people?⁶² But the Chinese version of the film cuts off the debate, it doesn't allow viewers to reach that (or any) conclusion on their own. Legal specialists in China know that some version of the jury has been adopted in Japan and Korea and is under consideration in Taiwan. Could China in fact implement a jury system based on the Anglo-American model? On its face, the message of *12 Citizens* would seem to be no.

Of course, this may be too negative a reading of the movie's positive message, even if it is completely out of step with the idea of the jury in *12 Angry Men*. Thus Lu Gang, Juror No. 8, expresses many admirable sentiments, which ideally would be shared by actual judicial officials in China. During the deliberations, for example, he declares that 'a fact that may condemn a man to death must be accurate,' and insists that 'we have to examine any doubt that he may be the murderer.' In another impressive speech, No. 8 says 'I don't know the truth. No one does. Maybe we're wrong. But we have reasonable doubt (*you heli de huaiyi*). In our society, it's a priceless protection. No one can arbitrarily declare a person guilty unless the evidence is conclusive (*quezaao*).'⁶³ He also expresses regret that the defendant did not enjoy better legal representation: 'the lawyer was convinced from the beginning that her client was guilty [...] She didn't cross-examine, to save his life.' In short, Juror No. 8 is a highly intelligent and conscientious official in whom the people can repose their trust.

And indeed, Lu Gang's views are in line with a major Party decision, which focused on rule of law issues and was announced in late 2014, about the same time as *12 Citizens* made its film festival premiere. That decision discussed possible reforms to the people's assessors system, which made them sound a bit more like common law jurors,⁶⁴ including the random selection of assessors and the expansion of their participation in criminal trials, even if their determinations would be restricted to the facts. *12 Citizens* also appeared in Chinese theatres in late spring 2015, just as a two-year pilot program was launched in some Chinese courts.⁶⁵ The jurors in this program might not have authority over sentencing, but

⁶¹ Jury Love, available at: <<http://prawfsblawg.blogs.com/prawfsblawg/2016/04/jury-love.html#more>>. Weiser, B (2016) 'Jury Trials Vanish, and Justice Is Served Behind Closed Doors,' *New York Times*, 8 August.

⁶² In case any Chinese viewers failed to register this point, one juror declares that 'if we had a jury system in China, we'd put people's lives in the hands of an irresponsible guy like this!'

⁶³ Actually, Lu Gang seems to refer to two different standards: the conviction of the judge vs. beyond a reasonable doubt.

⁶⁴ Noted by Clarke, D (2015) 'China's Legal System and the Fourth Plenum' (20) *Asia Policy* at 10-16. The Decision was adopted at the 4th Plenary Session of the 18th Central Committee of the Chinese Communist Party on 23 October 2014. The principles relating to popular participation and people's assessors may be found in Section IV (4) of the Decision. Translation at <<https://chinacopyrightandmedia.wordpress.com/2014/10/28/ccp-central-committee-decision-concerning-some-major-questions-in-comprehensively-moving-governing-the-country-according-to-the-law-forward/>>.

⁶⁵ In ten provinces and municipalities, including Beijing. The Five-Year Plan the Supreme People's Court released in 2015 included a general paragraph on promoting reforms to the people's assessors system. *Zuigao*

they may decide guilt or innocence, a practice that apparently borrows from common law systems.⁶⁶ Such reforms reportedly have the support of academics, many of whom will have seen *12 Angry Men*, though not necessarily of judicial officials, who may well prefer the version of the jury that *12 Citizens* presents.⁶⁷

CONCLUSION: WHAT DOES IT ALL MEAN?

Both of the movies discussed in this essay present a version of Anglo-American procedure, despite their setting in China. *Silent Witness* offers viewers a dramatic trial in the adversarial mode, while *12 Citizens* looks behind the scenes to dramatise tense jury deliberations. Both movies owe a large debt to US courtroom drama, even if only one of them is a copy, with its own twist. Thus, *12 Citizens* uses a mock trial to introduce a jury when none so far exists, while *Silent Witness* simply ignores reality and pretends that this is how Chinese trials work. Although the two films differ from each other in many ways, they both present a kind of alternative universe of Chinese court procedure, an adaptation of an Anglo-American trial system as well as the movie genre itself. Both films also showcase an idealised version of that procedure, which Chinese viewers might or might not be attracted to, but most of whom realise does not—and at the moment could not—exist in China.

Although the two movies have a contemporary setting and feature modern trials, both clearly reference past values: just as in traditional Chinese court dramas, the goal of procedure is the truth. Thus in *12 Citizens*, in a striking change from the original American movie, the key juror is actually a prosecutor whose job is weighing the evidence to find the truth, and in this he succeeds. It's only in *Silent Witness* that the film takes an entirely different path and we see things from the point of view of the defence as well as the prosecution, though we must believe that prosecutor Tong Tao is righteous and that he too is determined to learn the whole truth so justice can be done.

At the same time, these films owe little to depictions of Chinese justice in pre-1949 cinema, and neither presents the kind of social-legal critique found in some early movies, which for that reason remain powerful today. It's true that at least one of these contemporary courtroom dramas is intended as popular entertainment, whatever other themes the writers and directors had in mind. But early Chinese films with a stronger message about justice and law, not to mention post-Cultural Revolution scar cinema, were intended for a general rather than an art-house audience. Of course, in the current political climate, in which censorship has become tighter and tighter, it would be impossible to make that kind of movie or at least distribute it in China now.⁶⁸ So *Silent Witness* showcases personal justice,

Renmin Fayuan Guanyu Shenhua Renmin Fayuan Gaige de Yijian—Disige Wunian Gaige Gangyao (2014-2018) [Opinion of the Supreme People's Court on Deepening Reform of the People's Courts Comprehensively: Outline of the Fourth Five-Year Reform of the People's Courts (2014-2018)], paragraph 33.

⁶⁶ Reported in Zhang, Yi (2015) 'Pilot Program Modifies the Jury System,' *China Daily*, 14 May. Though one report says they could only decide the 'veracity of the facts, not decide whether the defendant broke the law.' Shan, X (2015) 'Under Latest Court Reform, China's Jury Is In,' *Caixin Online*, 3 June, available at: <<http://english.caixin.com/2015-06-03/100815855.html>>.

⁶⁷ At least one academic has proposed a jury of nine to twelve members, who would hear evidence from the prosecutor and defence attorney before reaching a decision. Shan, X, 'Under Latest Court Reform' supra note 67.

⁶⁸ Jia Zhangke's 2013 film *Touch of Sin* (*Tian Zhuding*), which does at least indirectly criticise the (legal) system as well as corruption and bad officials, has not been shown in Chinese theaters. See the discussion in Beam C (2013) 'China Doesn't Want You to See This Year's Best Chinese Film,' *New Republic*, 3 December

one that appealed to Chinese viewers but is also officially approved; Chinese officials now find it convenient to promote at least some Confucian values, particularly those expressing obedience and respect for authority. That may be one reason *Silent Witness* attracted a far larger theatre audience than *12 Citizens*, but in my view neither of these movies packs the emotional punch of the earlier films.

Yet, popular entertainment can still raise issues of legal justice, even if it cannot be done directly in China, so both films offer something for more serious viewers to ponder. Neither film tells the story from the perspective of judges, and the police, who often represented legal officials in early post-Cultural Revolution movies, hardly feature in either story. Instead, in *Silent Witness* we see an adversarial trial in which the defence lawyer plays an important role, while the judges are given very minor parts in the drama. In *12 Citizens*, the entire action focuses on the jury's deliberations, and the jurors do the right thing in the end, even if they need a professional hand to guide them. Both films depict key characteristics of any fair criminal procedure, in particular the right to present a defence with a lawyer of one's choice in court and to have evidence of guilt (or innocence) honestly and seriously considered.

Both *Silent Witness* and *12 Citizens* highlight social and economic issues meant to add weight to their stories as well as increase their audience appeal. Those issues, of great concern to many Chinese people now, include corruption, economic inequality, and the privileged lives of the *fu'er dai*, who in these films are charged (or nearly charged) with murder, even if only one of them is guilty. But perhaps the most important of these issues, one that resonated deeply with viewers, is really a moral or personal one: the parent-child relationship and the duties as well as love it entails. That bond is the key to the stories in both films: Lin Tai sacrifices himself for his daughter, and Juror No. 3's vote, until the very end, is a reaction to the devastating break with his son. The centrality of the parent-child relationship echoes earlier movies that struck a chord with Chinese audiences and no doubt contributed to their popular appeal.

The two movies take very different views of women, however, and their place in the legal system. *12 Citizens* retains the all-male jury of its 1950s model, and although the defence lawyer in the film's mock trial is a female student, we barely glimpse her—and Juror No. 8 declares to the other members of the jury that she did a poor job. (But if the writers could turn the original film's message upside down, why couldn't they have added a few women to the group?) *Silent Witness* does include women on both the prosecution and the defence team, with the lead defence lawyer a very successful woman, even if the decision to do so was primarily based on commercial considerations. According to Fei Xing, he had originally planned to cast a male actor as Zhou Li, but in the end he chose an actress to make the film more appealing to women viewers (it certainly worked for me).⁶⁹

2013. Nor has South Korea's *The Defender* (*Bianhuren* 2013) been released in China or in my experience is it available there on DVD, though many of my Chinese friends have seen it online. The *Defender* ranks as No. 59 out of the top 250 foreign films rated on Douban.com, with a score of 9.1 available at: <<https://movie.douban.com/subject/21937445/>>. See Wertime, D (2014) 'The President that China Never Had' *Foreign Policy*, 21 June, available at: <<http://foreignpolicy.com/2014/06/21/the-president-that-china-never-had/>>.

⁶⁹ Velez, D 'NY Asian 2014' *supra* note 13. This phenomenon is hardly limited to the movies discussed in this essay. See 'Still a Man's World on China's Movie Screens' *South China Morning Post*, 20 September 2016, reporting on the China Women's Film Festival in Beijing. The festival's goal was to increase the representation of women in film at a time when Chinese audiences have apparently accepted gender inequality in movies.

Overall, both movies present positive images of the procedure and its legal actors, but to some extent neither *Silent Witness* nor *12 Citizens* has the courage of its convictions. In *Silent Witness*, it seems unlikely that justice will be done in the courtroom, however open and professional it is, and in *12 Citizens*, the jurors are not all the ordinary people they at first appear to be. That allows both movies to avoid more difficult (i.e., political) issues and to sidestep the question of what makes for justice in court. What would happen if jurors were in fact allowed to decide guilt or innocence, without professional control? What would happen if lawyers could put on a real defence for their clients without worrying about possible sanctions or a rough stint in jail? But at least in these films we are shown positive images of how criminal trials might work. If this legal system is not the reality in China today, then the movies present it as the ideal, an intriguing and possibly subversive message for films of this kind.

GLOSSARY OF CHINESE TERMS

Romanisation (Hanyu Pinyin)	Chinese Characters	English Translation
<i>fu'erdai</i>	富二代	rich second-generation
<i>jianchaguan</i>	检察	procurator
<i>laoban</i>	老板	boss
<i>peishentuan</i>	陪审团	jury
<i>peishenyuanzhidu</i>	陪审员制度	people's assessors system
<i>Quanmin Muji</i>	全民目击	<i>Silent Witness</i>
<i>quezao</i>	确凿	conclusive
<i>Shennü</i>	神女	<i>Goddess</i>
<i>Shi'er Gongmin</i>	十二公民	<i>12 Citizens</i>
<i>Shi'er Nuhan</i>	十二怒汉	<i>12 Angry Men</i>
<i>Yanyang Tian</i>	艳阳天	<i>Bright Day</i>
<i>you heli de huaiyi</i>	有合理的怀疑	reasonable doubt